

1 BRYAN BOYNTON
Acting Assistant Attorney General, Civil Division
2 TRACY L. WILKISON
Acting United States Attorney
3 DAVID M. HARRIS, AUSA
Chief, Civil Division
4 DAVID K. BARRETT, AUSA
Chief, Civil Fraud Section
5 ABRAHAM MELTZER, AUSA
Deputy Chief, Civil Fraud Section
6 CHARLES E. CANTER, AUSA
California State Bar No. 263197
7 Room 7516, Federal Building
300 N. Los Angeles Street
8 Los Angeles, California 90012
Tel.: 213.894.0620 | Fax: 213.894.7819
9 Email: charles.canter@usdoj.gov

JAMIE ANN YAVELBURG
10 COLIN M. HUNTLEY
BREANNA L. PETERSON
11 JONATHAN K. HOERNER
U.S. Department of Justice
12 Civil Division
P.O. Box 261
13 Ben Franklin Station
Washington, D.C. 20004
14 Tel: 202.305.3671
Email: breanna.l.peterson@usdoj.gov
15 Attorneys for the
United States of America
16

17 UNITED STATES DISTRICT COURT

18 FOR THE CENTRAL DISTRICT OF CALIFORNIA -- WESTERN DIVISION

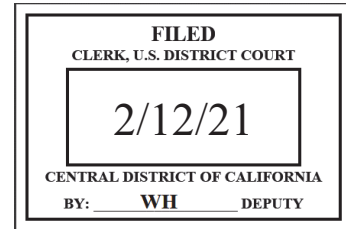
19 UNITED STATES OF AMERICA and
STATE OF CALIFORNIA, *et al.*,
20 *ex rel.* [UNDER SEAL],

21 Plaintiff[s],

22 v.

23 [UNDER SEAL],

24 Defendant[s].
25
26
27
28



UNDER SEAL

No. CV 17-01391 PSG (KSx)

NOTICE OF ELECTION BY THE UNITED
STATES AND STATE OF CALIFORNIA TO
DECLINE INTERVENTION

[FILED UNDER SEAL PURSUANT TO THE
FALSE CLAIMS ACT, 31 U.S.C.
§§ 3730(b)(2) AND (3)]

1 BRYAN BOYNTON
Acting Assistant Attorney General, Civil Division
2 TRACY L. WILKISON
Acting United States Attorney
3 DAVID M. HARRIS, AUSA
Chief, Civil Division
4 DAVID K. BARRETT, AUSA
Chief, Civil Fraud Section
5 ABRAHAM MELTZER, AUSA
Deputy Chief, Civil Fraud Section
6 CHARLES E. CANTER, AUSA
California State Bar No. 263197
7 Room 7516, Federal Building
300 N. Los Angeles Street
8 Los Angeles, California 90012
Tel.: 213.894.0620 | Fax: 213.894.7819
9 Email: charles.canter@usdoj.gov
JAMIE ANN YAVELBURG
10 COLIN M. HUNTLEY
BREANNA L. PETERSON
11 JONATHAN K. HOERNER
U.S. Department of Justice
12 Civil Division
P.O. Box 261
13 Ben Franklin Station
Washington, D.C. 20004
14 Tel: 202.305.3671
Email: breanna.l.peterson@usdoj.gov
15 Attorneys for the
United States of America

17 UNITED STATES DISTRICT COURT

18 FOR THE CENTRAL DISTRICT OF CALIFORNIA -- WESTERN DIVISION

19 UNITED STATES OF AMERICA and
STATE OF CALIFORNIA, *et al.*,
20 *ex rel.* THE SAM JONES
COMPANY, LLC,

21 Plaintiffs,

22 v.

23 BIOTRONIK, INC.; CEDARS-SINAI
24 MEDICAL CENTER; and DR.
JEFFREY GOODMAN,

25 Defendants.
26

No. CV 17-01391 PSG (KSx)

NOTICE OF ELECTION BY THE UNITED
STATES AND STATE OF CALIFORNIA TO
DECLINE INTERVENTION

**[FILED UNDER SEAL PURSUANT TO THE
FALSE CLAIMS ACT, 31 U.S.C.
§§ 3730(b)(2) AND (3)]**

1 The United States, pursuant to the federal False Claims Act,
2 31 U.S.C. § 3730(b)(4)(B), and the State of California, pursuant to
3 the California False Claims Act, Cal. Gov't Code § 12652(a)(3)(B),
4 hereby notify the Court of their respective decisions not to
5 intervene in the above-captioned action. The State of California, on
6 behalf of the named states (*i.e.*, the other states named as *qui tam*
7 plaintiffs in addition to California), further notifies the Court
8 that those named states decline to intervene.

9 Although the United States declines to intervene, 31 U.S.C.
10 § 3730(b)(1) permits the *qui tam* plaintiff The Sam Jones Company,
11 LLC (the "Relator") to maintain this action in the name of the
12 United States, provided, however, that the "action may be dismissed
13 only if the court and the Attorney General give written consent to
14 the dismissal and their reasons for consenting." *Id.* The
15 California False Claims Act similarly so provides, Cal. Gov't Code
16 § 12652(c)(1), as do most of the named states' false claims
17 statutes.¹ Notwithstanding the language of 31 U.S.C. § 3730(b)(1),
18 the Ninth Circuit has held that the United States has the right only
19 to a hearing when it objects to a settlement or dismissal of the
20 action. *United States ex rel. Green v. Northrop Corp.*, 59 F.3d 953,
21 959 (9th Cir. 1995); *United States ex rel. Killingsworth v. Northrop*

23
24 ¹ One exception is the Maryland False Health Claims Act, which
25 provides that "[i]f the State does not elect to intervene and
26 proceed with the action . . . before unsealing the complaint, the
27 court shall dismiss the action." Md. Code Ann., Health Gen., § 2-
28 604(a)(7); *see also United States ex rel. Dan Abrams Co. LLC v. Medtronic, Inc.*, No. CV15-01212-JAK-(ASx), 2017 WL 4023092, *12 (C.D. Cal. Sept. 11, 2017) (unpublished). Accordingly, because the State of Maryland declines to intervene, all claims asserted on behalf of the State of Maryland should be dismissed without prejudice at the appropriate time.

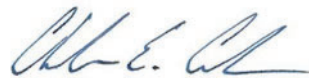
1 Corp., 25 F.3d 715, 723-25 (9th Cir. 1994). Accordingly, should
2 either the relator or the defendants propose that this action be
3 dismissed, settled, or otherwise discontinued, the United States and
4 State of California request that the parties notify the United
5 States and the State of California of the same, and that the Court
6 provide the United States and the State of California with an
7 opportunity to be heard before ruling or granting its approval.

8 Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United
9 States requests service of all pleadings filed in this action; the
10 United States also requests that orders issued by the Court in this
11 action be sent to the United States' counsel. The State of
12 California, on its own behalf and on behalf of the other states,
13 requests the same. The United States and the State of California, on
14 its own behalf and on behalf of the named states, reserve their
15 rights to order any deposition transcripts, to intervene in this
16 action at a later date for good cause, and to seek the dismissal of
17 this action or any claims therein. The United States and the States
18 of California also request service of all notices of appeal in this
19 action.

20 The United States and the State of California will separately
21 file an application requesting the unsealing of this action.

22 DATED: February 12, 2021

TRACY L. WILKISON
Acting United States Attorney
DAVID M. HARRIS, AUSA
Chief, Civil Division
DAVID K. BARRETT, AUSA
Chief, Civil Fraud Section
ABRAHAM MELTZER, AUSA
Deputy Chief, Civil Fraud Section

23
24
25
26
27 

CHARLES E. CANTER, AUSA
Attorneys for the United States

of America

DATED:

2/11/2021

ERIKA HIRAMATSU

Supervising Deputy Attorney General

A handwritten signature in blue ink, appearing to read "D. Zlotnick", is written over a horizontal line.

DAVID ZLOTNICK

Deputy Attorney General

California Department of Justice

Attorneys for the State of California

PROOF OF SERVICE BY E-MAIL

I am over the age of 18 and not a party to the above-captioned action. I am employed by the Office of United States Attorney, Central District of California. My business address is 300 North Los Angeles Street, Suite 7516, Los Angeles, California 90012.

On February 12, 2021, I served the NOTICE OF ELECTION BY THE UNITED STATES TO DECLINE INTERVENTION on each person or entity named below by e-mail.

Date of e-mailing: February 12, 2021. Place of e-mailing: Los Angeles, California.

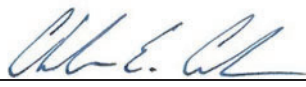
Person(s) and/or Entity(s) to whom mailed:

Mychal Wilson
mw@mychalwilsonesq.com
The Law Office of Mychal Wilson
401 Wilshire Blvd., 12th Floor
Santa Monica, CA 90401

David Zlotnick
David.Zlotnick@doj.ca.gov
Office of the Attorney General
Bureau of Medi-Cal Fraud & Elder Abuse
1455 Frazee Road, Suite 315
San Diego, CA 92108

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 12, 2021, at Los Angeles, California.



CHARLES E. CANTER